

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

TOUCHSCREEN GESTURES LLC,

Plaintiff,

No. C 13-02478 WHA

v.

GOOGLE, INC.,

Defendant.

**ORDER DENYING PRÉCIS
REQUEST FOR LEAVE TO FILE
MOTIONS TO STRIKE AND
DISMISS**

Defendant in this patent action filed a précis requesting approval to file a motion to strike plaintiff's infringement contentions and dismiss the action on two grounds: (1) plaintiff's infringement contentions are deficient because it used Google Android source code from a third party website rather than source code supplied by Google itself; and (2) plaintiff "improperly parse[d] a limitation of claim 1" of the patent, rendering the infringement contentions "flawed" and inconsistent with other claims in the patent. Evaluating the former will require taking evidence on the sufficiency of the source code selected by plaintiff, and the latter will require claim construction. On the present record, these issues appear more appropriate to resolve on a motion for summary judgment. The précis request is **DENIED**.

IT IS SO ORDERED.

Dated: October 22, 2013.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE